



Docket No.: H6808.0040/P040

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Yoshihiro Kimura et al.

Application No.: 10/779,749

Confirmation No.: 2045

Filed: February 18, 2004

Art Unit: 2881

For: Method of determining the concavity and  
convexity on sample surface, and charged  
particle beam apparatus

Examiner: P. A. Johnston

**AMENDMENT IN RESPONSE TO NON-FINAL OFFICE ACTION**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

In response to the Office Action dated November 27, 2006, please amend the above-identified U.S. patent application as follows:

**Amendments to the Claims** are reflected in the listing of claims which begins on page 6 of this paper.

**Remarks/Arguments** begin on page 7 of this paper.

**FEE CALCULATION**

Any additional fee required has been calculated as follows:

	Claims Remaining After Amendment	Highest Number Previously Paid	Number Extra Claims Present	Rate	Additional Fee
Total	14	- 20* =		X	
Independent	4	- 4** =		X	
First presentation of Multiple Dependent Claim(s) (if applicable)					
TOTAL					0.00

\*not less than 20

\*\* not less than 3

No additional fee is required.

In the event a fee is required or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 50-2215.

## CONTINGENT EXTENSION REQUEST

If this communication is filed after the shortened statutory time period had elapsed and no separate Petition is enclosed, the Commissioner of Patents and Trademarks is petitioned, under 37 CFR 1.136(a), to extend the time for filing a response to the outstanding Office Action by the number of months which will avoid abandonment under 37 CFR 1.135. The fee under 37 CFR 1.17 should be charged to our Deposit Account No. 50-2215.